

BEFORE THE UNITED STATES
FEDERAL ELECTION COMMISSION

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FEDERAL ELECTION COMMISSION

Campaign Legal Center
215 E Street, NE
Washington, DC 20002
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Democracy 21
2000 Massachusetts Avenue, NW
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v.

MUR No. 6711

Specialty Investments Group Inc. (formerly Specialty Group Inc.)
12678 Amberset Dr.
Knoxville, TN 37922-5371

Kingston Pike Development LLC
12678 Amberset Dr.
Knoxville, TN 37922-5371

William S. Rose, Jr.
12678 Amberset Dr.
Knoxville, TN 37922-5371

John Doe, Jane Doe and other
persons who created and operated
Specialty Investments Group Inc.
and Kingston Pike Development
LLC and made contributions to
FreedomWorks for America in the
name of Specialty Investments
Group Inc. and Kingston Pike
Development LLC

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COMPLAINT

1. This complaint is filed pursuant to 2 U.S.C. § 437g(a)(1) and is based on information and belief that Specialty Investments Group Inc. (formerly Specialty Group Inc.), Kingston Pike Development LLC, William S. Rose, Jr. and any person(s) who created, operated and

made contributions in the name of Specialty Group Inc. and Kingston Pike Development LLC (John Doe, Jane Doe and other persons) may have violated provisions of the Federal Election Campaign Act ("FECA"), 2 U.S.C. § 431, *et seq.*

2. Specifically, based on published reports, complainants have reason to believe that Mr. Rose and any other person(s) who created and operated Specialty Group Inc. and Kingston Pike Development LLC may have violated 2 U.S.C. § 441f by making contributions to the political committee FreedomWorks for America in the name of another person, namely Specialty Group Inc. and Kingston Pike Development LLC, and that Specialty Group Inc. and Kingston Pike Development LLC may have violated 2 U.S.C. § 441f by knowingly permitting their names to be used for the making of such contributions.
3. Further, based on published reports, complainants have reason to believe that Specialty Group Inc. and Kingston Pike Development LLC and the persons who created and operated Specialty Group Inc. and Kingston Pike Development LLC, including Mr. Rose, may have violated 2 U.S.C. §§ 432, 433 and 434 by failing to organize Specialty Group Inc. and Kingston Pike Development LLC as political committees, as defined at 2 U.S.C. § 431(4), register the political committees and file disclosure reports as political committees.
4. "If the Commission, upon receiving a complaint . . . has reason to believe that a person has committed, or is about to commit, a violation of [the FECA] . . . [t]he Commission shall make an investigation of such alleged violation" 2 U.S.C. § 437g(a)(2) (emphasis added); *see also* 11 C.F.R. § 111.4(a).

BACKGROUND

5. On October 27, 2012, the *Knoxville News Sentinel* published an Associated Press story with the headline: "Mystery Tennessee firm formed days before \$5M campaign gift."¹

According to the report, FreedomWorks for America "received seven donations totaling \$5.28 million from Knoxville-based Specialty Group Inc.[,]" which accounted for about 90 percent of the contributions received by FreedomWorks for America during the first 15 days of October.² The report explained that "Specialty Group filed its incorporation papers on Sept. 26, less than a week before it gave several contributions to FreedomWorks worth between \$125,000 and \$1.5 million apiece."³ The registered agent of Specialty Group Inc., Mr. Rose, "did not respond to requests for comment. He did not answer a knock on the door . . . at his Knoxville home, which shares the same address registered to Specialty Group."⁴

6. On December 7, 2012, the *Seattle Times* published a follow-up Associated Press story, reporting that Mr. Rose, a "lawyer in Tennessee who is mysteriously linked to millions of dollars in campaign contributions steered to congressional candidates[,] doubled his investments in the weeks before Election Day and quietly funneled \$6.8 million more" to FreedomWorks for America.⁵ Mr. Rose "told The Associated Press that his business was a

¹ Jack Gillum, *Mystery Tennessee firm formed days before \$5M campaign gift*, KNOXVILLE NEWS SENTINEL, Oct. 27, 2012, available at <http://www.knoxnews.com/news/2012/oct/27/mystery-firm-formed-days-before-5m-campaign-gift/> (last visited Dec. 19, 2012).

² *Id.*

³ *Id.*

⁴ *Id.*

⁵ Jack Gillum & Stephen Braun, *Shadowy donor behind record 'super' PAC checks*, SEATTLE TIMES, Dec. 7, 2012, available at http://seattletimes.com/html/politics/2019853241_apusmysterydonor.html (last visited Dec. 19, 2012).

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'family secret' and he was not obligated to disclose the origin of what now amounts to more than \$12 million that he routed through two companies he recently created."⁶

7. The follow-up Associated Press story further reported that Mr. Rose changed the name of Specialty Group Inc. to "Specialty Investments Group Inc." in late November, and that Mr. Rose also "registered and owns" another recently-created corporation named Kingston Pike Development LLC, which also made contributions to FreedomWorks for America.⁷
8. Business records on file with the Tennessee Secretary of State's office indicate that Mr. Rose created Specialty Group Inc. on September 26, 2012,⁸ and created Kingston Pike Development LLC one day later, on September 27, 2012.⁹
9. The recipient political committee, FreedomWorks for America, is registered with the FEC as an independent expenditure-only political committee (ID C00499020). FreedomWorks for America reported receiving 17 contributions totaling \$10,575,000 from Specialty Group Inc. between October 1 and November 1, 2012, as well as three contributions totaling \$1.5 million from Kingston Pike Development LLC between October 25 and October 30, 2012.
10. In total, two companies set up by Mr. Rose in late September—Specialty Group Inc. and Kingston Pike Development LLC—contributed more than \$12 million to FreedomWorks for America within six weeks of their creation. Mr. Rose has refused to disclose the sources of these funds.

⁶ *Id.*

⁷ *Id.*

⁸ Tenn. Sec'y of State, Business Entity Detail for Specialty Investments Group, Inc. (Control # 000696604), <http://inbear.tn.gov/Ecommerce/FilingDetail.aspx?CN=129038118147035173181038045017208017164239078150> (last visited Dec. 19, 2012).

⁹ Tenn. Sec'y of State, Business Entity Detail for Kingston Pike Development LLC (Control # 000696725), <http://inbear.tn.gov/Ecommerce/FilingDetail.aspx?CN=074025029030067228119145205236088145196224219162> (last visited Dec. 19, 2012).

PROHIBITION ON CONTRIBUTIONS IN THE NAME OF ANOTHER

11. FECA provides that "[n]o person shall make a contribution in the name of another person or knowingly permit his name to be used to effect such a contribution and no person shall knowingly accept a contribution made by one person in the name of another person." 2 U.S.C. § 441f.
12. The Commission regulation implementing the statutory prohibition on "contributions in the name of another" provides the following examples of "contributions in the name of another":
- "Giving money or anything of value, all or part of which was provided to the contributor by another person (the true contributor) without disclosing the source of money or the thing of value to the recipient candidate or committee at the time the contribution is made," 11 C.F.R. § 110.4(b)(2)(i).
 - "Making a contribution of money or anything of value and attributing as the source of the money or thing of value another person when in fact the contributor is the source." 11 C.F.R. § 110.4(b)(2)(ii).
13. Based on published reports, complainants have reason to believe that Mr. Rose and any other person(s) who created, operated and contributed to Specialty Group Inc. and Kingston Pike Development LLC may have violated 2 U.S.C. § 441f by "[g]iving money . . . , all or part of which was provided to the contributor[s]" Specialty Group Inc. and Kingston Pike Development LLC by Mr. Rose and/or the person(s) who created and operated Specialty Group Inc. and Kingston Pike Development LLC (*i.e.*, the true contributor(s)) without disclosing the source of money to FreedomWorks for America at the time the contribution was made. *See* 11 C.F.R. § 110.4(b)(2)(i).

14. Based on published reports, complainants have reason to believe that Mr. Rose and/or any other person(s) who created and operated Specialty Group Inc. and Kingston Pike Development LLC may have violated 2 U.S.C. § 441f by “[m]aking a contribution of money . . . and attributing as the source of the money . . . another person [, namely, Specialty Group Inc. and Kingston Pike Development LLC,] when in fact [Mr. Rose and/or any other person(s) who created and operated Specialty Group Inc. and Kingston Pike Development LLC was] the source.” See 11 C.F.R. § 110.4(b)(2)(ii).
15. Based on published reports, complainants have reason to believe that Specialty Group Inc. and Kingston Pike Development LLC may have violated 2 U.S.C. § 441f by “knowingly permit[ting their names] to be used to effect such a contribution.” 2 U.S.C. § 441f.

**POLITICAL COMMITTEE STATUS, REGISTRATION
AND REPORTING REQUIREMENTS**

16. FECA defines the term “political committee” to mean “any committee, club, association or other group of persons which receives contributions aggregating in excess of \$1,000 during a calendar year or which makes expenditures aggregating in excess of \$1,000 during a calendar year.” 2 U.S.C. § 431(4); *see also* 11 C.F.R. § 100.5(a). “Contribution,” in turn, is defined as “any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office” 2 U.S.C. § 431(8)(A). Similarly, “expenditure” is defined as “any purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value, made by any person for the purpose of influencing any election for Federal office” 2 U.S.C. § 431(9)(A).
17. In *Buckley v. Valeo*, 424 U.S. 1 (1976), the Supreme Court construed the term “political committee” to “only encompass organizations that are under the control of a candidate or

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the major purpose of which is the nomination or election of a candidate." 424 U.S. at 79 (emphasis added). Again, in *FEC v. Massachusetts Citizens for Life*, 479 U.S. 238 (1986), the Court invoked the "major purpose" test and noted, in the context of analyzing the activities of a "social welfare" organization formed under section 501(c)(4) of the Internal Revenue Code, that if a group's independent spending activities "become so extensive that the organization's major purpose may be regarded as campaign activity, the corporation would be classified as a political committee." *Id.* at 262 (emphasis added). In that instance, the Court continued, it would become subject to the "obligations and restrictions applicable to those groups whose primary objective is to influence political campaigns." *Id.* (emphasis added). The Court in *McConnell* restated the "major purpose" test for political committee status as iterated in *Buckley*. *McConnell v. FEC*, 540 U.S. 93, 170 n.64 (2003).

18. The Commission has explained:

[D]etermining political committee status under FECA, as modified by the Supreme Court, requires an analysis of both an organization's specific conduct—whether it received \$1,000 in contributions or made \$1,000 in expenditures—as well as its overall conduct—whether its major purpose is Federal campaign activity (*i.e.*, the nomination or election of a Federal candidate).

Supplemental Explanation and Justification on Political Committee Status, 72 Fed. Reg. 5595, 5597 (Feb. 7, 2007).

19. For the reasons set forth above, there is a two prong test for "political committee" status under federal law: (1) whether an entity or other group of persons has a "major purpose" of influencing the "nomination or election of a candidate," as stated by *Buckley*, and if so, (2) whether the entity or other group of persons receives "contributions" or makes "expenditures" of \$1,000 or more in a calendar year.

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20. Any entity that meets the definition of a "political committee" must file a "statement of organization" with the Federal Election Commission, 2 U.S.C. § 433, must comply with the organizational and recordkeeping requirements of 2 U.S.C. § 432, and must file periodic disclosure reports of its receipts and disbursements, 2 U.S.C. § 434.¹⁰
 21. The political committee disclosure reports required by FECA must disclose to the Commission and the public, including complainants, comprehensive information regarding such committee's financial activities, including the identity of any donor who has contributed \$200 or more to the committee within the calendar year. *See* 2 U.S.C. § 434(b). The Supreme Court has repeatedly recognized the importance of campaign finance disclosure to informing the electorate. *See, e.g., Citizens United v. FEC*, 130 S. Ct. 876, 915 ("[T]he public has an interest in knowing who is speaking about a candidate shortly before an election.").
 22. Based on published reports, complainants have reason to believe that Specialty Group Inc. and Kingston Pike Development LLC may each have met the two-prong test for political committee status by (1) being an entity or group of persons with the "major purpose" of influencing the "nomination or election of a candidate" and (2) by receiving "contributions" of \$1,000 or more in a calendar year.
 23. Specifically, based on published reports, it appears that Specialty Group Inc. and Kingston Pike Development LLC were set up shortly before they each made contributions to FreedomWorks for America, that both were set up for the purpose of making such

¹⁰ In addition, a "political committee" that does not confine its activities to "independent expenditures" is subject to contribution limits, 2 U.S.C. §§ 441a(a)(1), 441a(a)(2), and source prohibitions, 2 U.S.C. § 441b(a), on the contributions it may receive. 2 U.S.C. § 441a(f); *see also* FEC Advisory Op. 2010-11 at 2 (Commonsense Ten) (A committee that "intends to make only independent expenditures" and "will not make any monetary or in-kind contributions (including coordinated communications) to any other political committee or organization" is not subject to contribution limits.)

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contributions and that both have no purpose other than to have made such contributions. Accordingly, it appears the "major purpose" of both such groups was to influence federal elections. Further, based on published reports, it appears that the money received by Specialty Group Inc. and Kingston Pike Development LLC was given to the two groups so they both could make contributions to FreedomWorks for America, and therefore was given to both groups for the purpose of influencing federal elections. As such, the funds received by Specialty Group Inc. and Kingston Pike Development LLC were contributions within the meaning of 2 U.S.C. §431(8). Accordingly, it appears that Specialty Group Inc. and Kingston Pike Development LLC each have received "contributions" of \$1,000 or more.

24. Consequently, complainants have reason to believe that Specialty Group Inc. and Kingston Pike Development LLC, Mr. Rose and any other person(s) who created and operated Specialty Group Inc. and Kingston Pike Development LLC may have violated 2 U.S.C. §§ 432, 433 and 434 by failing to organize Specialty Group Inc. and Kingston Pike Development LLC as political committees, as defined at 2 U.S.C. § 431(4), register the political committees and file disclosure reports as political committees.

PRAYER FOR RELIEF

25. Wherefore, the Commission should find reason to believe that Specialty Group Inc. and Kingston Pike Development LLC, Mr. Rose and any other person(s) who created, operated and made contributions in the names of Specialty Group Inc. and Kingston Pike Development LLC (John Doe, Jane Doe and other persons), have violated 2 U.S.C. § 431 *et seq.*, including 2 U.S.C. §§, 432, 433, 434 and 441f, and should conduct an immediate investigation under 2 U.S.C. § 437g(a)(2). Further, the Commission should determine and

impose appropriate sanctions for any and all violations, should enjoin the respondents from any and all violations in the future, and should impose such additional remedies as are necessary and appropriate to ensure compliance with the FECA.

December 20, 2012

Respectfully submitted,



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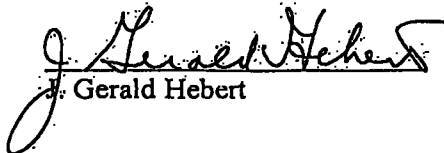
Counsel to Democracy 21

VERIFICATION

The complainants listed below hereby verify that the statements made in the attached Complaint are, upon their information and belief, true.

Sworn to pursuant to 18 U.S.C. § 1001.

For Complainant Campaign Legal Center


Gerald Hebert

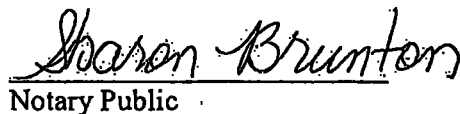
Sworn to and subscribed before me this 20 day of December, 2012.


Notary Public

For Complainant Democracy 21


Fred Wertheimer

Sworn to and subscribed before me this 20 day of December, 2012.


Notary Public

